

April 8, 2004

A Regular Meeting of the Zoning Board of Appeals of the Town of Lancaster, Erie County, New York, was held at the Lancaster Town Hall, 21 Central Avenue, Lancaster, New York, on the 8th day of April 2004, at 8:00 P.M., and there were

PRESENT: JEFFREY LEHRBACH, CHAIRMAN

 ANTHONY ESPOSITO, MEMBER

 WILLIAM MARYNIEWSKI, MEMBER

 RICHARD QUINN, MEMBER

 ARLIE SCHWAN, MEMBER

ABSENT: JOSEPH GIGLIA, MEMBER

 ROBERT THILL, MEMBER

ALSO PRESENT: JOHANNA M. COLEMAN, TOWN CLERK

 JOHN DUDZIAK, DEPUTY TOWN ATTORNEY

 LEONARD CAMPISANO, ASSIST. BUILDING INSPECTOR

The Affidavits of Publication and Posting of this Public Hearing are on file and a copy of the Legal Notice has been posted.

PETITION OF TIM HORTON'S RESTAURANT:

THE 1st CASE TO BE CONSIDERED BY THE Zoning Board of Appeals was that of the petition of Tim Horton's Restaurant, 4455 Transit Road, Williamsville, New York 14221 for six [6] variances for the purpose of constructing a coffee and baked goods restaurant on premises located at the north east corner of Genesee Street and Harris Hill Road, namely 496 Harris Hill Road. The property is owned by Robert Nuchereno of 4855 Meadowbrook, Williamsville, New York, to wit:

- A. A variance from the requirements of Chapter 50, Zoning, Section 35C. of the Code of the Town of Lancaster for the purpose of erecting a six [6] foot high fence along the north property line beginning thirty [30] feet from the right of way.

Chapter 50, Zoning, Section 35C. of the Code of the Town of Lancaster limits the maximum height of a fence or wall extending into a required front yard area (sixty foot set back) to three [3] feet in height. The petitioner, therefore, requests a three [3] foot fence height variance for a fence length of thirty [30] feet beginning at a point [30] thirty feet inside the right of way and positioned along the north property line.

- B. A variance from the requirements of Chapter 50, Zoning, Section 18C.(3) of the Code of the Town of Lancaster. The proposed structure location would result in a thirty [30] foot west front yard set back on Harris Hill Road.

Chapter 50, Zoning, Section 18C.(3) of the Code of the Town of Lancaster requires a sixty [60] foot west front yard set back on Harris Hill Road. The petitioner, therefore, requests a thirty [30] foot west front yard set back variance from Harris Hill Road.

- C. A variance from the requirements of Chapter 50, Zoning, Section 18C.(1) of the Code of the Town of Lancaster. The lot area of the premises upon which the variance is sought is .72 acres [31,363 square feet].

Chapter 50, Zoning, Section 18C.(1) of the Code of the Town of Lancaster requires a minimum lot area of one acre [43,560 square feet]. The petitioner, therefore, requests a .28 acre [12,197 square foot] lot area variance.

- D. A variance from the requirements of Chapter 50, Zoning, Section 18C.(3) of the Code of the Town of Lancaster. The proposed south exterior front yard set back for parking, loading and stacking along Genesee Street is 9.5 feet.

Chapter 50, Zoning, Section 18C.(3) of the Code of the Town of Lancaster requires that there be a twenty [20] foot fully landscaped south exterior front yard set back. The petitioner, therefore, requests a 10.5 foot south front yard set back variance along Genesee Street.

- E. A variance from the requirements of Chapter 50, Zoning, Section 18C.(3) of the Code of the Town of Lancaster. The proposed east side yard set back for parking, loading and stacking is 4.1 feet.

Chapter 50, Zoning, Section 18C.(3) of the Code of the Town of Lancaster requires that there be a twenty-five [25] foot fully landscaped east side yard set back. The petitioner, therefore, requests a 20.9 foot east side yard set back variance.

- F. A variance from the requirements of Chapter 50, Zoning, Section 18C.(3) of the Code of the Town of Lancaster. The proposed north side yard set back for parking, loading and stacking is fifteen [15] feet.

Chapter 50, Zoning, Section 18C.(3) of the Code of the Town of Lancaster requires that there be a twenty-five [25] foot north side yard. The petitioner, therefore, requests a ten [10] foot north front yard set back variance.

The Clerk presented and entered into evidence the following items:

- Duly executed petition of the applicant with exhibits and schedules attached thereto.
- Copy of a letter notifying the petitioner of the time and place of this public hearing.
- Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.
- Copy of a letter notifying the Erie County Department of Planning of the time and place of this public hearing.
- Copy of a letter notifying New York State Department of Transportation of the time and place of this public hearing.

PERSONS ADDRESSING THE BOARD

Lou Terragnoli, petitioner Director of Real Estate, Tim Horton's 4455 Transit Road Williamsville, New York 14221	Proponent
Nancy Stirling 370 Lake Avenue Lancaster, New York 14086	Comments regarding traffic patterns
Al Stirling 3 Village View Lancaster, New York 14086	Comments regarding traffic patterns

IN THE MATTER OF THE PETITION OF TIM HORTON'S

THE FOLLOWING RESOLUTION WAS OFFERED BY MR. LEHRBACH,
WHO MOVED ITS ADOPTION,
SECONDED BY MR. ESPOSITO TO WIT:

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Tim Horton's and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 8th day of April 2004, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has requested further information from the petitioner regarding traffic flow and ingress and egress.

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster, with the concurrence of the petitioner, agrees that an adjournment of this hearing is in the best interest of both the residents of the Town of Lancaster and the petitioner.

**NOW, THEREFORE, BE IT
RESOLVED** that this hearing be adjourned to allow for further testimony and evidence to be presented.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. ESPOSITO	VOTED YES
MR. GIGLIA	WAS ABSENT
MR. MARYNIEWSKI	VOTED YES
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	WAS ABSENT
MR. LEHRBACH	VOTED YES

The resolution adjourning this hearing was thereupon **ADOPTED**.

April 8, 2004

PETITION OF RONALD & ANN VANYO:

THE 2nd CASE TO BE HEARD BY THE Zoning Board of Appeals was that of the petition of Ronald and Ann Vanyo, 1 Park Walk, for one variance for the purpose of erecting a six [6] foot high fence in a required front yard area on premises owned by the petitioner at 1 Park Walk, Lancaster, New York, to wit:

A variance from the requirements of Chapter 50 Zoning, Section 35C. of the Code of the Town of Lancaster for the purpose of erecting a six [6] foot high fence in a required front yard.

Chapter 50, Zoning, Section 35C. of the Code of the Town of Lancaster limits the height of a fence or wall extending into a front yard area to three [3] feet in height. The petitioner, therefore, requests a three [3] foot fence height variance.

The Clerk presented and entered into evidence the following items:

Duly executed petition of the applicants with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioners of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

PERSONS ADDRESSING THE BOARD

Ronald Vanyo, petitioner Proponent
1 Park Walk
Lancaster, New York 14086

Julie Fulcinitti 15 Village View Lancaster, New York 14086	Opponent
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Nancy Stirling 370 Lake Avenue Lancaster, New York 14086	Opponent
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Al Stirling 3 Village View Lancaster, New York 14086	Opponent
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Richard Harlock 5 Park Walk Lancaster, New York 14086	Opponent
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Donna Harlock 5 Park Walk Lancaster, New York 14086	Opponent
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IN THE MATTER OF THE PETITION OF RONALD & ANN VANYO

THE FOLLOWING RESOLUTION WAS OFFERED
BY MR. ESPOSITO, WHO MOVED ITS ADOPTION,
SECONDED BY MR. MARYNIEWSKI TO WIT:

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Ronald and Ann Vanyo and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 8th day of April 2004, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has requested further information from the petitioner.

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster, with the concurrence of the petitioner, agrees that an adjournment of this hearing is in the best interest of both the residents of the Town of Lancaster and the petitioner.

WHEREAS, the Zoning Board of Appeals desires to review the site in order to consider alternative fence locations and options.

**NOW, THEREFORE, BE IT
RESOLVED** that this hearing be adjourned to allow for further testimony and evidence to be presented.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. ESPOSITO	VOTED YES
MR. GIGLIA	WAS ABSENT
MR. MARYNIEWSKI	VOTED YES
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	WAS ABSENT
MR. LEHRBACH	VOTED YES

The resolution adjourning this hearing was thereupon **ADOPTED**.

April 8, 2004

PETITION OF CAROLYN OLSEN:

THE 3rd CASE TO BE HEARD BY THE Zoning Board of Appeals was that of the petition of Carolyn Olsen, 428 Aurora Street, Lancaster, New York 14086 for one [1] variance for the purpose of constructing an addition to a detached garage on premises owned by the petitioner at 428 Aurora Street, Lancaster, New York, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 10.D.(4) of the Code of the Town of Lancaster. The area of the proposed addition, three hundred twenty [320] square feet, when added to the existing structure, six hundred eighty [680] square feet, is one thousand [1,000] square feet.

Chapter 50, Zoning, Section 10.D.(4) of the Code of the Town of Lancaster limits the area of accessory structures to seven hundred fifty [750] square feet. The petitioner, therefore, requests a two hundred and fifty [250] square foot variance.

The Clerk presented and entered into evidence the following items:

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

PERSONS ADDRESSING THE BOARD

Carolyn Olsen, petitioner Proponent
428 Aurora Street
Lancaster, New York 14086

IN THE MATTER OF THE PETITION OF CAROLYN OLSEN

THE FOLLOWING RESOLUTION WAS OFFERED
BY MR. LEHRBACH, WHO MOVED ITS
ADOPTION, SECONDED BY MR. ESPOSITO
TO WIT:

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Carolyn Olsen and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 8th day of April 2004, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That the applicant is the present owner of the premises in question.

That the property for which the applicant is petitioning is within a Residential District 1, (R1) as shown on the Zoning Map of the Town of Lancaster.

That the use sought is a permitted use appearing in the Residential District 1, (R1) as specified in Chapter 50 of the Code of the Town of Lancaster.

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicant cannot be achieved by some other method, feasible for the applicant to pursue, other than the area variance relief sought.

That the requested area variance relief is not substantial.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

That this board has taken into consideration the benefit to the applicant if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is the minimum variance necessary to afford relief.

NOW, THEREFORE, BE IT

RESOLVED that based upon these findings, the relief sought be and is hereby **GRANTED**.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. ESPOSITO	VOTED YES
MR. GIGLIA	WAS ABSENT
MR. MARYNIEWSKI	VOTED YES
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	WAS ABSENT
MR. LEHRBACH	VOTED YES

The resolution granting the variance was thereupon **ADOPTED**.

April 8, 2004

ON MOTION DULY MADE, SECONDED AND CARRIED, the meeting was adjourned at 9:27 P.M.

Signed _____
Johanna M. Coleman, Town Clerk
Dated: April 8, 2004